

Planning & Zoning Commission Meeting  
Minutes of April 4, 2012  
1st Floor North Conference Room - City Hall

**Present:** Chairman Mark C. Brooks, Vice-Chairman Nathaniel Cannady, Kristy Carter, Jeremy Goldstein and Jane Gianvito Mathews

**Absent:** Holly P. Shriner and Paul Smith

**Pre-Meeting - 4:30 p.m.**

The Commission reviewed the agenda and asked if there was an update on the health of Ms. Shriner.

**Regular Meeting - 5:00 p.m.**

Chairman Brooks called the meeting to order at 5:00 p.m. and informed the audience of the public hearing process.

**Administrative**

- ? Mr. Goldstein moved to approve the minutes of the March 7, 2012, meeting. This motion was seconded by Ms. Mathews and carried unanimously by a 5-0 vote.

**Agenda Items**

- (1) **Request to rezone a portion of the property located on Gerber Road from Urban Village District/Conditional Zoning to Community Business II District. The petitioner is Asheville Gerber, LLC and the contact is Fred Caligiuri. The property is identified as PIN 9655-26-4526.**

Urban Planner Nate Pennington oriented the Commission to the site location and said the current application is to rezone 4.25 acres of the original Gerber Urban Village property from Urban Village (UV) to Community Business Two (CB II). Last fall, the developed portion which includes the shopping center (about 7.22 acres) was rezoned from UV to CB II because the bank holding the note on the development foreclosed on the property and subsequently sold the different parcels to new owners. As was noted during that rezoning request, the Urban Village zone was created in 2001 and was applied to the large Gerber tract along with a master development plan. Only a portion of the site fronting along Hendersonville Road was actually built and a large section of the property (about 16 acres) has remained vacant. The downturn in the economy has been discussed as the main cause for the failure of this urban village project.

The parcel under consideration with this application is located on the south side of Gerber Road and is physically disconnected from the other portions of the site. The property cannot stand alone as an Urban Village because it does not meet the standard size for UV zoned areas (5 acres) and the buildable area is limited because a sizable portion of the lot that runs along Gerber Road is too narrow for development. The request to rezone the property to CB II is based on the size of the property and its limited buildable area with access from Gerber Road. . The intended scale for development in the CB II zone is appropriate for smaller parcels located along streets such as Gerber Road.

The proposed CB II zone is intended to provide areas for medium to high density commercial uses serving several residential neighborhoods. The district requires parking to be placed to the side or rear of the building which is a pedestrian oriented building standard to encourage pedestrian access and movement through the district. The location for CB II zoned areas is appropriately located on

major thoroughfare streets to ensure adequate access. The list of allowed uses is extensive in anticipation of the wide range of commercial uses needed to serve as a community base. Individual buildings cannot exceed 45,000 square feet.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable because the larger Urban Village project has been redirected because the property has been divided up and sold to different buyers and because the CB II zone is appropriately scaled for smaller lots like the subject parcel.

Pro:

- The proposed rezoning is responsive to changing market conditions and economic realities.
- The proposed zoning will be compatible with the scale of the parcel and the surrounding area.
- The zoning change is expected to encourage investment on the parcel.

Con:

- Mixed-use projects are becoming unlikely for this site and the surrounding area.

Staff recommends approval of the rezoning request from Urban Village District/Conditional Zoning to Commercial Business II District. .

Mr. Matt Sprouse, representing the applicant, spoke in support of the rezoning noting that the property cannot remain Urban Village because it is less than 5 acres and does not conform to the other property surrounding it.

Chairman Brooks opened the public hearing at 5:04 p.m. and when no one spoke, he closed the public hearing at 5:04 p.m.

Based on the above findings and the analysis provided in the report, Mr. Goldstein moved to recommend rezoning property located on Gerber Road from Urban Village District/Conditional Zoning to Community Business II District. This motion was seconded by Ms. Mathews and carried unanimously by a 5-0 vote.

**(2) Request to rezone a portion of the property located at 2 Compton Drive from RS-8 Residential Single Family High Density District to Institutional District. The petitioner is Eliada Home (Eliada Foundation Incorporated) and the contact is Kyle Barrett. The property is identified as a portion of PIN 9629-43-9909.**

Urban Planner Julia Fields and Urban Planner Blake Esselstyn oriented the Commission to the site location and said Eliada Homes, Inc. has petitioned the City of Asheville to rezone a portion of their 203.41 acre property off of Compton Drive from RS8 to Institutional. The property abuts existing Eliada Homes property that is zoned institutional to the north and east. The subject property contains a single-family home and a portion of the drive for Erwin Hills Baptist Church accessing from New Leicester Highway.

The applicants are petitioning for this rezoning in order to perhaps develop the property as part of the Eliada Homes operation sometime in the future. The other 198 acres owned by Eliada Homes is zoned Institutional. Access to the property for institutional purposes would be via Compton Drive or off a shared drive with the church.

The property to be rezoned is 5.4 acres in size. It is relatively flat near Compton Drive but slopes sharply down to New Leicester Highway.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- ? Addresses the goal found in the *Asheville City Development Plan: 2025* that appropriate non-residential uses that serve residents should be permitted in appropriate locations.
- ? Allows for all property owned by an institutional operation to be zoned as Institutional.

Con:

- ? None noted.

Staff finds this request to be reasonable and recommends approval of this rezoning petition.

In response to Ms. Mathews, Mr. Kyle Barrett, Eliada Homes Facilities Director, said that the house on the property was purchased a year ago and is now used for their interns.

Chairman Brooks opened the public hearing at 5:08 p.m. and when no one spoke, he closed the public hearing at 5:08 p.m.

Based on the above findings and the analysis provided in the report, Vice-Chairman Cannady moved to recommend rezoning property located at 2 Compton Drive from RS-8 Residential Single-Family High Density District to Institutional District. This motion was seconded by Ms. Mathews and carried unanimously by a 5-0 vote.

- (3) Review of the Conditional Zoning request for the project identified as Givens Park Apartments located on Gerber Road. The request seeks the rezoning from Urban Village District to Highway Business District/Conditional Zoning for the development of a 240 unit elderly affordable housing complex. The owner is Asheville Gerber, LLC and the contact is Matt Sprouse. The property is identified in the Buncombe County tax records as a portion of PIN 9655.26-4526.**

Urban Planner Nate Pennington oriented the Commission to the site location and said the applicant is requesting a Conditional Zoning for a portion of one (1) parcel zoned UV (Urban Village to HB-CZ (Highway Business – Conditional Zoning) for the development of a 240 unit senior housing development in accordance with Section 7-7-8 of the UDO.

The subject property consists of a portion of one parcel comprising 16.95 acres (split by Gerber Road) according to the submitted site plan and is located in the City of Asheville's corporate limits. The property is located along the north side of Gerber Road and behind the Gerber Village Shopping Center on Hendersonville Road. If approved, the subject property would be subdivided into two (2) separate parcels which would create separate tracts of land on each side of Gerber Road. The portion of property (4.25 acres) south of Gerber Road is being considered for a standard rezoning under a separate application. The proposed project density is 18.6 units per acre. The maximum density permitted in the HB zoning district is 32 units per acre.

The following list provides a breakdown of the proposed development:

- ? 5 story construction
- ? 2 apartment buildings - 240 total units (120 units per building)
- ? 188 – one bedroom units
- ? 52 – two bedroom units
- ? Covered pavilion, leasing area, walking trails and outdoor seating areas
- ? Large surface parking fields
- ? Approximately 800 linear feet of retaining walls, ranging in height from 5 to 8 feet
- ? New public sidewalk and other basic site improvements

The subject property is vacant and was previously graded to support the Gerber Village development. With the exception of existing evergreen trees along Gerber Road, the site is mostly void of vegetation.

The apartment project is proposed to be built in two (2) phases with one (1) building and associated parking to be constructed in each phase. The pavilion/seating area and a trail system are proposed to be built as part of phase I.

Access to the site is proposed to be provided from three points of ingress/egress (one is ingress only) along Gerber Road.

According to the site plan, 318 parking spaces are provided. This amount of parking is well within the minimum/maximum parking threshold and is inclusive of required ADA spaces. Sixteen bicycle parking spaces are provided and this number is in compliance of the required 5% bicycle parking standard. Vehicle parking is dispersed throughout the site with the majority of parking located to the sides and rear of the proposed buildings.

Street trees will be required along the entire frontage of Gerber Road – with one modification being requested (see below). Building impact and retaining wall landscaping are dispersed throughout the site. Parking lot landscaping has been provided in applicable areas and tree save areas are located towards the perimeter of the site.

The open space requirement for this type of development is 15% of the total site size; a total of 2.45 acres for this site. The site plan illustrates that more than adequate open space has been reserved to meet this requirement.

Section 7-11-3(d)(3)c. of the UDO provides that street trees are required to be located no farther than 20 feet from the edge of pavement. Due to the location of existing underground and overhead utilities as well as a natural gas relief valve platform along Gerber Road, the applicant is requesting a modification to place required trees as far back as 35 feet from the edge of pavement. **The staff finds this request to be reasonable and supports the modification.**

A continuous sidewalk will be constructed along Gerber Road.

This proposal was approved with conditions by the Technical Review Committee on March 19, 2012.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

**1. That the proposed use or development of the land will not materially endanger the public health or safety.**

The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

**2. That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**

The subject property is vacant and was previously graded years ago to support the Gerber Village development. The property is surrounded by high intensity commercial uses, vacant

property, road infrastructure and an active rail line. The proposed infill development is clustered towards the center of the site and will be planted with required landscaping.

**3. That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**

As noted in Finding #2, the proposed development is compatible with surrounding uses and adjacent transportation corridors.

**4. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**

As noted in Finding #2, the development is proposed in an area surrounded by other uses of similar intensity and served by adequate infrastructure. The proposed density is approximately one-half of the permitted residential density for the HB zoning district and is currently zoned to accommodate a much higher density.

**5. That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**

Elements of the proposal are aligned with the City's goals and objectives for "Affordable" and "Green and Sustainable," as noted in the Compliance with Comprehensive Plan and other Adopted Plans section (listed above).

**6. That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**

The property is located along Gerber Road in the vicinity of Sweeten Creek Road and Hendersonville Road. The nearest bus stop is approximately 100 feet north of the Gerber Village Shopping Center along Hendersonville Road and a pedestrian access point is proposed allowing for ingress/egress into the shopping center from the project. Adequate water supply, fire and police protection, waste disposal and similar facilities are verified during the TRC review process.

**7. That the proposed use will not cause undue traffic congestion or create a traffic hazard.**

The impact of the proposed use as revised (Givens Park Apartments) is expected to be substantially less than the density associated with the previously approved Urban Village residential use. As a result, the revised proposed use is not expected to cause undue traffic congestion or create a traffic hazard.

Based on the above findings and the analysis provided in the report, staff finds this request, with conditions noted, to be reasonable.

**Pros:**

- ? Higher density development furthers the goals and objectives of the comprehensive plan.
- ? The project meets City goals of providing green, affordable and infill development.

**Cons:** None noted.

Staff recommends approval of the project, including the modification request, as submitted by the applicant.

Mr. Matt Sprouse, representing the applicant, used a colored rendering as he briefly explained the two phases noting that the majority of the amenities and open space will be in Phase One. He said there is a strong pedestrian connection with Gerber Village. He said that they feel they can accommodate stormwater as bio-retention on the surface. He also noted they are trying to maintain a

large berm north and east of the site to screen from industry and the railroad. He said that they feel they will not have any concerns meeting all the Technical Review Committee conditions.

In response to Chairman Brooks, Mr. Dean Edwards, representing Givens Estate, explained the financing said that the project will be constructed in two phase. For Phase One, the affordable rates are 32 units @ 30% median income and 86 units @ 60% median income.

Chairman Brooks opened the public hearing at 5:21 p.m.

Mr. Timothy Sadler suggested that the project include urban gardening options, and asked about transit options near the project.

In response to Chairman Brooks, Mr. Sprouse further explained the pedestrian access via Gerber Village to the bus stop.

In response to Ms. Carter, Mr. James Wilson, representing the applicant, believed there is a crossing signal at Hendersonville Road in the immediate area; however, if there is not, the City's Traffic Engineer would get the developer in touch with the N.C. Dept. of Transportation.

Chairman Brooks closed the public hearing at 5:26 p.m.

Based on the above findings and the analysis provided in the report, Ms. Carter moved to recommend approval of the project identified as Givens Park Apartments located on Gerber Road, from Urban Village District to Highway Business District/Conditional Zoning for the development of a 240 unit elderly affordable housing complex, with the modification to place required trees as far back as 35 feet from the edge of pavement, and subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with full cut-off fixtures (including wall packs) and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee if applicable; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (5) This project will undergo final review by the TRC prior to issuance of any required permits; and (6) A minor subdivision application must be submitted and approved to create the lot to the south of Gerber Road that is being rezoned as part of a separate application. This motion was seconded by Mr. Goldstein and carried unanimously by a 5-0 vote.

### **Other Business**

City Attorney Oast said that in light of a ruling at the Court of Appeals, he said there may be a change in process by which the Commission's recommendations are communicated to City Council. It may be as straightforward as the Chairman signing a letter stating that the minutes represent their recommendations and attaching the letter to the minutes.

Chairman Brooks announced the next meeting on May 2, 2012, at 5:00 p.m. in the First Floor Conference Room in the City Hall Building.

### **Adjournment**

At 5:32 p.m., Chairman Brooks moved to adjourn the meeting. This motion was seconded by Mr. Goldstein and carried unanimously on a 5-0 vote.

